

DIANA LONGBOTTOM
et al.

PLAINTIFFS

RITE AID CORPORATION
et al.

DEFENDANTS

* IN THE
* CIRCUIT COURT
*
* FOR
*
* BALTIMORE COUNTY
*
*
* CASE #: 03-C-01-013845
*

* * * * *

AMENDED COMPLAINT

Now come the Plaintiffs, Diana Longbottom and B. Bruce Longbottom, her husband, by and through their attorneys, Donald H. Feige, Esquire, and Gerald W. Soukup, Esquire, and sue the Defendants, Rite Aid Corporation, and "DCC" (full name unknown), as an agent, servant or employee of Rite Aid Corporation, and further state the following:

COUNT I

NEGLIGENCE

1. The Plaintiffs are residents of Baltimore County, Maryland.
2. Defendant, Rite Aid Corporation, is a corporation, maintaining its principal offices in Camp Hill, Pennsylvania, that does business in Baltimore County, Maryland.
3. Defendant "DCC" (full name unknown) was the pharmacist who was, at the time the prescriptions were filled, acting as an agent, servant or employee of Defendant, Rite Aid Corporation.
4. On or about December 11, 1999, the Plaintiff visited her gynecologist for symptoms of menopause. After conferring with her doctor the Plaintiff decided to begin hormone

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replacement therapy. Her doctor gave her two prescriptions to be filled and gave directions for the administration of the medications.

5. On or about December 17, 1999, the Plaintiff took the prescription she was given to the Rite Aid pharmacy, store #0476, in Phoenix, Maryland, to have it filled.

6. The pharmacist, "DCC," at Rite Aid, unbeknownst to the Plaintiffs, negligently dispensed the incorrect medication to the Plaintiff Diana Longbottom and gave her a prescription for Premarin instead of Provera which had been prescribed by the Plaintiff's doctor.

7. The Plaintiff took the medications as prescribed by the doctor, not aware that she had in fact been given the wrong medication. The prescription was refilled on two additional occasions by the Defendants.

8. That the Plaintiff, Diana Longbottom, discovered, approximately 1 year after taking this combination of medications, at a routine physical by her primary care doctor, that Estratest HS and Premarin are both hormones and are not to be taken at the same time.

9. Defendants were negligent and careless by improperly filling the Plaintiff's prescription with two incompatible medications.

10. Rite Aid and its agent, servant or employee had a duty of care to the Plaintiff to properly fill her prescription and to ensure that incompatible medications were not given to the Plaintiff. Defendants breached this duty of care by failing to properly fill the Plaintiff's prescription.

11. Defendants' negligence proximately caused Plaintiff to sustain damages including her undergoing unnecessary medical procedures, to endure unnecessary pain and suffering and endure emotional distress and monetary damages.

WHEREFORE, Plaintiff demands judgment against Defendants, Rite Aid Corporation and the pharmacist, "DCC," for the sum of Thirty Thousand Dollars (\$30,000.00) in compensatory damages.

COUNT II

BREACH OF CONTRACT

Plaintiffs incorporate by reference Paragraphs 1 through 11 as if fully stated hererin.

12. The Defendants contracted with the Plaintiff Diana Longbottom to fill a prescription given to the Plaintiff, Diana Longbottom, and properly fill her prescription.

13. The Defendants breached their contractual duty by improperly filling the Plaintiff's prescription.

14. That the Plaintiff has used due care and is free of contributory negligence.

WHEREFORE, Plaintiff demands judgment against Defendants, Rite Aid Corporation and the pharmacist, "DCC," for the sum of Thirty Thousand Dollars (\$30,000.00) in compensatory damages, with interest, attorneys fee and costs.

COUNT III

LOSS OF CONSORTIUM

The Plaintiffs incorporate by reference the factual allegations contained in Counts I & II, and state further;

15. That as a further, direct and proximate result of the negligence of the Defendants, Rite Aid Corporation and "DCC" Pharmacist, the Plaintiffs, who were then, and are now, husband and wife, were caused to sustain and suffer the loss of consortium to the detriment of the marital relationship.

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16. That the sole and proximate cause of the damages sustained by the Plaintiffs was the negligence of the Defendants without any negligence on the part of the Plaintiffs, in any way contributing thereto.

WHEREFORE, Plaintiffs demand judgment against Defendants, Rite Aid Corporation and the pharmacist, "DCC," for the sum of Fourteen Thousand Dollars (\$14,000.00) in damages.

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CERTIFICATE OF SERVICE FOR PLAINTIFFS

I HEREBY CERTIFY that on this _____ day of _____, 2003, a copy of the foregoing was mailed first class, postage prepaid to: James A. Rothschild, Esquire, Anderson, Coe & King, LLP, 201 North Charles Street, Suite 2000, Baltimore, Maryland 21201, Attorney for Defendant.

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ELECTION FOR JURY TRIAL

The Plaintiffs elect to have this matter tried before a jury.

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